

**ORDINANCE NO. 11-27**

ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA; AMENDING CHAPTER 94 ENTITLED "WATER AND SEWERS", ARTICLE IV. PROCEDURES FOR WATER AND SEWER SERVICES, DIVISION 4. RATES, FEES AND CHARGES, OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, FLORIDA, AND IN PARTICULAR, BY ADOPTING AND CREATING A NEW SECTION, HIALEAH CODE § 94-162 ENTITLED "WATER AND WASTEWATER CAPITAL CHARGES"; DELETING AND REPEALING ALL REFERENCES TO "WATER CONNECTION FEES" AND "SEWER CONNECTION FEES" CONTAINED IN HIALEAH CODE § 94-153 AND OTHER SECTIONS OF CHAPTER 94, CODE OF ORDINANCES; PROVIDING A SHORT TITLE; PROVIDING FINDINGS AND INTENT; PROVIDING ENFORCEMENT, VIOLATIONS AND PENALTIES; PROVIDING LIBERAL CONSTRUCTION AND INTERPRETATION; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

**WHEREAS**, the specific intent and purpose of this ordinance is to produce revenues through impact fees that will assist in the financial support for the potable water and wastewater service needed to sustain future and current development in the service area to be served by the Hialeah Reverse Osmosis Water Treatment.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1. Title.** This Ordinance shall be entitled and may be referred to as the “Hialeah Water and Wastewater Capital Charge Ordinance,” or “Capital Charge Ordinance,” the provisions of which shall be incorporated into the Code of Ordinances, City of Hialeah, Florida (hereafter “Code”).

**Section 2. City findings and intent.** In adopting this Ordinance and these amendments to the Code of Ordinances of the City of Hialeah, Florida (the “Code”), the Mayor and City Council of the City of Hialeah (the “Mayor and Council”) hereby makes and expresses the following findings, purposes and intent:

(1) This Ordinance is enacted pursuant to all general and special law authority of the City of Hialeah (the “City”) including its home rule powers, for the purpose of providing for the necessary provision, extension, expansion, operation, management, maintenance, and regulation (collectively “control”) of potable water and wastewater service to the citizens and customers of the City’s combined potable water and wastewater systems (collectively the “City System”).

(2) In the past few years, the City has undertaken various studies of its potable water supply and wastewater disposal needs for the purpose of developing cost-effective and environmentally acceptable water and wastewater utility system expansions to meet the service needs of the City.

(3) Towards that end, the City has prepared, adopted and updated a comprehensive plan pursuant to Part II, Chapter 163, Florida Statutes, together with a capital improvement element that assists the City in projecting future service needs.

(4) The City has also annexed additional land to the west of its existing boundaries not yet served by central water and wastewater utilities, and this annexed area will increase in population and service demands in the coming years.

(5) Stringent state and federal water and wastewater treatment and operation standards have been promulgated, and with these increasing costs of constructing central water and wastewater facilities, the City's ability to provide central water and wastewater service within the City may be limited but will certainly lead to higher capital costs per unit of development.

(6) If the City does not provide adequate central water and wastewater service within its designated service area to meet increased demand, it will be faced with private sector pressure to allow the continued construction and installation of substandard, privately financed and operated water and wastewater treatment plants and septic tanks, thus contributing to urban sprawl and more costly utility services within the City.

(7) The potential for the City to have to assume operation of these privately financed and operated facilities in the future is great based upon case studies throughout Florida, including Orange, Hillsborough, Brevard, Sarasota, Marion, Palm Beach and other urbanized counties.

(8) The City's comprehensive plan and associated state statutes contained in Chapter 163, Part II, Florida Statutes, requires the City to insure that the public facilities and services needed to support new development are available concurrent with the impacts of such development.

(9) The financing of central water and wastewater facilities is complex, requires extensive planning and engineering, and calls for advanced participation by the

development community so that adequate public facilities can be provided to meet the impacts of that development.

(10) Therefore, to protect water resources, prevent sprawl, implement water and wastewater service concurrency, enable financing of City facilities, and provide for the most cost effective and environmentally acceptable central water and wastewater facilities, the City has determined the need to establish a just and equitable system for financing and selling water and wastewater service capacities in its system so that public funds are not wasted.

(11) To provide the needed water and wastewater service capacity, the City undertook various studies of its system and its service area, and as a result of these studies, the City entered into a joint participation agreement with Miami Dade County for the design, construction, and operation of a 10 MGD Reverse Osmosis Water Treatment Plant, developed a plan for expanding wastewater capacity, and developed a financing plan.

(12) The City determined to issue certain Water and Sewer Revenue Bonds to partially pay for improvements and expansions to its central water system.

(13) To issue and sell the revenue bonds, the City must set proper and lawful rates, fees, and charges, and towards that end, the City engaged Milian, Swain, & Associates, Inc. to perform a "Utility Rate Study" dated December, 2010, and a "Final Report" was issued February 11, 2011.

(14) The objective of the Rate Study is to provide the City with a schedule of recommended rates and charges which will adequately generate the revenues necessary to

meet the projected fiscal requirements of the City on an equitable basis to all classes or users.

(15) The City's engineers and rate consultants have performed the Rate Study and other studies and reports to calculate just, fair, and equitable rates, fees, and charges resulting in a structuring of rates to provide for a more equitable allocation of costs to all customer classes.

(16) The City is authorized by Chapters 166 and 180, Florida Statutes, and other relevant provisions of state law, to adopt municipal user charges, Capital Charges, service availability charges, and other miscellaneous rates, fees, and charges consistent with state law.

(17) The City has full and exclusive authority over the management, operation, and control of the City System and the authority to prescribe rules and regulations governing the use of such facilities whenever such are provided by the City, and to make such changes from time to time in such rules and regulations as it deems necessary.

(18) The control of the City System is an essential utility service.

(19) The City has provided the required public notice and held the necessary public hearing(s) in order to adopt these charges

(20) It is the policy and objective of the Mayor and Council to ensure that rates, fees, and charges levied to pay for additions and expansions to its system shall be just and reasonable and cover the true cost of said additions and expansions.

(21) It is just and reasonable that the cost of the system should be borne by those existing and new users on a fair share basis in accordance with applicable law.

(22) It is the intention of the Mayor and Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Hialeah, Florida, and the sections of this Ordinance may be renumbered to accomplish such intention.

**Section 3. Creation and Adoption of New Section, Hialeah Code § 94-162.**

Chapter 94 entitled “Water and Sewers”, Article IV. Procedures for Water and Sewer Services, Division 4. Rates, Fees and Charges, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by adding a new section, Hialeah Code § 94-162 entitled “Water and Wastewater Capital Charges”, to read as follows:

Chapter 94

**WATER AND SEWERS**

\*

\*

\*

**ARTICLE IV. PROCEDURES OF WATER AND SEWER SERVICES**

\*

\*

\*

**DIVISION 4. RATES, FEES AND CHARGES\***

\*

\*

\*

**Sec. 94-162. Water and wastewater capital charges.** The city hereby adopts water and wastewater capital charges as specified hereinbelow to finance water supply, treatment and transmission facilities and wastewater collection.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means the person who applies for a building permit.

*Applicable improvement* means any land use that may create a growth-necessitated demand upon the city water and/or wastewater systems.

*Bedroom* means any room in a single-family residence, which is other than a kitchen, bathroom, living room or great room (Florida room), which may be used for sleeping quarters.

*Building* means any structure, either temporary or permanent, built for the support, shelter, or enclosure of persons, chattels, or property of any kind, or any other improvement, use, or structure that creates or increases potential demand on the water and/or wastewater utility system operated by the city. This term shall include all dwellings, trailers, mobile homes or any vehicles functioning as a building.

*Building permit* means an official document or certificate issued by the authority having jurisdiction, authorizing the construction of sitting of any building. For the purposes of this ordinance, the term "building permit" shall also include the tie-down permits for those structures or buildings, such as a mobile home, that does not otherwise require a building permit in order to be occupied.

*Dwelling* means any building, or part thereof, intended or designed for residential occupancy that consists of one or more rooms which are arranged or used as living quarters.

*Dwelling unit* means a building or portion of a building designed for or whose primary purpose is for residential occupancy, and that consists of one or more rooms, which are arranged, designed or used as living quarters for one or more persons. Also, room or rooms connected together, constituting a separate, independent housekeeping establishment for no more than one family and physically separated from any other rooms or dwelling units that may be in the same structure. A dwelling unit must contain sleeping and sanitary facilities and a primary kitchen.

*Dwelling, duplex* means a single, freestanding, conventional building on a single lot, which contains only two dwelling units and is intended, designed, used and occupied as two dwelling units under single ownership, or where each dwelling unit is separately owned or leased but the lot is held under common ownership.

*Dwelling, garden apartment* means a dwelling unit that is accessed from an interior common space in a building consisting of more than one dwelling unit that may contain dwelling units in a vertical arrangement.

*Dwelling, mobile home* means a detached dwelling unit complying with all of the following characteristics: (a) designed for long-term occupancy and containing sleeping accommodation, a flush toilet, a tub or shower/bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; (b) designed for transportation (after fabrication) or streets or highways on its own wheels, and (c) arriving complete at the site where it is to be occupied as a dwelling, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connection to utilities and the like. A mobile home structure shall be transportable in one or more sections.

*Dwelling, multiple family* means a group of two or more dwelling units within a single conventional building, attached side by side, or one above the other, or both, and wherein each dwelling unit may be individually owned or leased initially on land which is under common or single ownership. For purposes of determining whether a lot is in multiple-family dwelling use, the following considerations shall apply:

a. Multiple-family dwelling uses may involve dwelling units intended to be rented and maintained under central ownership and management, or cooperative apartments, condominiums, and the like and may include the fee ownership of land beneath each dwelling unit following development from a common base of ownership.

b. Any multiple-family dwelling in which dwelling units are available for rental for periods of less than one week shall be considered a motel or hotel, as the case may be, and shall only be permitted in districts where specifically designated.

c. For the purpose of the computation of water and/or wastewater capital charges, the following shall be considered multiple-family dwelling units: guesthouses, servants' quarters, in-law apartments, garden apartments, townhouses, adult congregate living facilities, assistant or extended care living facilities, residential care and treatment facilities, mobile homes and nursing homes.

*Dwelling, single-family* means a building that contains only one dwelling unit and is intended, designed, used and occupied by no more than one family.

*Dwelling, townhouse* means a group of two or more dwelling units attached to each other by a common wall or roof wherein each unit has direct exterior access and no unit is located above another, and each unit is completely separated from any other(s) by a rated firewall or a fire and sound resistant enclosed separation or space, and wherein each dwelling unit may or may not be on a separate lot under separate ownership.

*Encumbered* means monies connected by contract or purchase order in a manner that obligates the city to expend the encumbered amount upon the delivery of goods, the rendering of services, or the conveyance of real property interests by a vendor, supplier, contractor or owner.

*Equivalent Residential Connection* or ERC generally represents the equivalent usage requirements of a single-family residential customer. For the purpose of this ordinance, an ERC will have an assigned value of 1.0. One (1) ERC is deemed to be equal to a flow of three hundred fifty (350) gallons per day (GPD) for water; and one (1) ERC is deemed to be equal to a flow of three hundred fifty (350) gallons per day (GPD) for wastewater. The assumed ERC gallonage has been based upon statistical data establishing average residential use by Miami-Dade County, and it is recognized that the uses for some types of residential units may be greater or smaller than the average assumed for this calculation. The city may modify this calculation from time to time based upon appropriate data and analysis.

*Food service* means food prepared on site and excludes pre-wrapped sandwiches or vending machine products.



*Capital charge* shall be the fee imposed by the city pursuant to this section and shall be paid by properties connecting to the city utility system. Capital charges shall be used solely for funding the cost of expansion of the city's wastewater or water system.

*MGD* means million gallons per day.

*Owner* means the person or persons holding legal title to the real property that is subject to capital charges.

*Person* means an individual, a corporation, a partnership, an incorporated association, trust, or any other entity.

*Residential* means multi-family dwelling units, condominium/townhouses/garden apartments, mobile homes, travel trailer recreational vehicle, single-family detached houses, or any other development upon land that qualifies as a dwelling.

*Non-residential* means commercial, motel, hotel, construction trailers or any other development upon land that does not qualify as residential.

*Service area* means that area in and around city that will be served by the city's water and/or wastewater utility services.

*Utilities revenue fund* means the unrestricted cash fund whereby deposits made into such fund are available for any lawful use by the city.

(b) *Capital charge*.. A capital charge is hereby imposed and levied on all development requesting capacity from the city's water system and/or wastewater system to provide service to their properties and on all properties presently connected to the city's water system or wastewater collection system when structural changes, additions or changes in permitted use shall result in an additional impact to the city's water system or wastewater system.

(c) All development and newly constructed structures connecting to the city's water and/or wastewater system or existing structures who through additions, alterations or change of permitted use increase their impact to the city's water and/or wastewater system within the city water and/or wastewater service area from and after the effective date of this section shall be subject to the payment of the capital charge as set forth herein.

(1) This capital charge will be charged over and above any other service installation fee, lateral charge, inspection fee, utility assessment charge, or monthly service fee as may be established by an existing, or future, city ordinance, or resolution and shall be paid prior to the issuance of a building permit for construction of such property, and in no event shall connection of such property to the city's water and/or wastewater system be allowed without the full payment of the capital charge.

(2) Capital charges will not be transferable from one property to another.

(d) *Establishment of capital charges.*

(1) The Water and Wastewater Capital Charges per ERC shall consist of the following component fees as follows:

Water Impact Fee-Plant .....\$2,726.50 per ERC (\$7.79 per gallon of plant capacity)

Water Impact Fee-Transmission/Distribution...\$ 248.50 per ERC (\$0.71 per gallon of hydraulic capacity)

Wastewater Capital Charge .....\$ 966.00 per ERC (\$2.76 per gallon of capacity)

(2) The determination of a water and/or wastewater ERC shall be as follows:

a. Individually-Metered Residential Service – All development which will be served by a 5/8 inch or 3/4 inch water meter and/or a 4-inch sewer lateral (where a separate service connection exists which connects the individual dwelling unit to the city's water and/or wastewater system) shall be considered as one (1) ERC for each applicable service requested by the owner or applicant. All other individually-metered residential development requiring services greater than the size referenced in this section shall be determined in accordance with the ERC application methodology discussed in this section for non-residential service.

b. Master-Metered Residential Service – Each dwelling unit served by a master meter shall be considered one (1) ERC for each applicable service requested by the owner or applicant. If the development served by the master meter includes non-residential use, then the capital charge for such non-residential use will be determined in addition to the applicable master-metered residential service.

c. Non-Residential Service – As part of the application and approval process for the issuance of a building permit, the owner or applicant must provide an estimate of the average dependable daily water and wastewater capacity that will be approved by the city prior to the issuance of such building permit. The water and wastewater capital charges shall be determined as follows:

Average Dependable Daily Capacity  
Expressed on a gallon per day basis

Water Capital Charge =  $\frac{\text{Average Dependable Daily Capacity}}{350} \times \$2,975.00$

Average Dependable Daily Capacity  
Expressed on a gallon per day basis

Wastewater Capital Charge =  $\frac{\text{Average Dependable Daily Capacity}}{350} \times \$966.00$

All ERC values shall be calculated to the nearest tenth (0.1 ERC) for fee application purposes, but in no event shall a capital charge for water and/or wastewater service be calculated at less than one (1) ERC.

d. With respect to the determination of the water and wastewater capital charges for non-residential development, if no water and wastewater capacity estimates are provided, the city reserves the right to estimate the average dependable daily capacity as referenced in this section and determine the appropriate capital charge to be charged to such owner or applicant.

e. The city reserves the right to review the amount of water and/or wastewater consumption during the life of a customer's service and shall bill to the owner or applicant any adjustment to the water and wastewater capital charges for capacity use in excess of amounts that have been paid by the owner or applicant. Any additional capital charge payments shall be billed to the owner or applicant at the then applicable capital charge amount.

(e) *Payment of capital charges.*

(1) Except as otherwise expressed provided in this ordinance, prior to the issuance of a building permit where applicable, all applicants or owners, as the case may be, shall pay the water and/or wastewater capital charges as established herein.

(2) Collection of fees when building permit is issued by mistake or inadvertence; lien. In the event that the capital charge is not paid prior to the issuance of a building permit for the construction of a building or a residential dwelling unit because of a mistake or inadvertence, the city shall proceed to collect the capital charge as follows:

a. The city shall serve, by certified mail, return receipt requested, a capital charge statement notice upon the applicant at the address set forth in the application for the building permit; and the owner at the address appearing on the most recent records maintained by the county property appraiser. The city shall also attach a copy of the capital charge statement notice to the building permit posted at the affected construction site if the building is under construction. Service of the capital charge statement notice shall be deemed notice of the capital charges due and service shall be deemed effective on the date of the return receipt indicates the notice was attached to the building permit, whichever occurs first.

b. The capital charge statement notice shall contain the legal description of the property or folio number and shall advise the applicant and the owner as follows:

(i) The amount due and the general purpose for which the capital charge was imposed.

- (ii) That a hearing before the special master may be requested within 30 calendar days from the date of the receipt of the capital charge statement notice, by making application to the water and sewers department to the attention of the director.
  - (iii) That the capital charge shall be delinquent if not paid and received by the city within 60 calendar days of the date of the capital charge statement notice if a hearing is not requested pursuant to subsection (e)(2)b(ii) above and, upon becoming delinquent, shall be subject to the imposition of a delinquent fee and interest on the unpaid amount until paid.
  - (iv) That if the capital charge becomes delinquent, a lien against the property for which the building permit was secured shall be recorded in the official records book of Miami-Dade County.
- c. The capital charge shall be delinquent if, within 60 calendar days from the date of the capital charge statement notice, or the date such notice was attached to the building permit, neither the capital charges have been paid and received by the city, nor a hearing request pursuant to subsection (e)(2)b(ii) above. In the event a hearing is requested pursuant to subsection (e)(2)b(ii) above, the capital charges shall become delinquent if not paid within 30 calendar days from the date the special master determines the amount of capital charges due upon the conclusion of such hearing. The time periods shall be calculated on a calendar day basis, without exception, but excluding the date of the capital charge statement notice of the hearing date of the special master's decision in the event of an appeal. In the event the last day falls on a Saturday, Sunday or legal holiday, the last due date prior to becoming delinquent shall be the next business day. Upon becoming delinquent, a delinquency fee equal to ten percent (10%) of the total fee imposed shall be assessed. Such total capital charge, plus delinquency fee, shall bear interest at the statutory rate for final judgments calculated on a calendar day basis, until paid.
- d. Should the capital charge become delinquent, the city shall serve, by certified mail, return receipt requested, a "notice of lien" upon delinquent applicant if the building is under construction at the address indicated in the application for the building permit, and upon the delinquent owner at the address appearing on the most recent records maintained by the property appraiser of Miami-Dade County.
- e. Upon mailing of the notice of lien, the city attorney shall file a claim of lien with the clerk of the circuit court in and for Miami-Dade County for recording in the county official records. The claim of lien shall contain the legal description of the property, the amount of the delinquent capital charges, and the date of their imposition. Once recorded, the claim of lien shall constitute a lien against the property described therein. The city attorney shall proceed expeditiously to collect or otherwise enforce said lien. After the expiration of six months from the date of recording of the claim of lien, or after the expiration of one year from the date the capital charge became due and payable, whichever is the later of the two, as

provided herein, a suit may be filed to foreclose such lien. Such foreclosure proceedings shall be instituted, conducted and enforced in conformity with the procedures for the foreclosure of municipal special assessment liens, as set forth in sections 173.04 through 173.12, inclusive, F.S., which provisions are hereby incorporated herein in their entirety to the same extent as if such provision were set forth verbatim.

f. The liens for delinquent capital charges imposed hereunder shall remain liens, coequal with the lien of all state, county, district and municipal taxes, superior in dignity to all other subsequently filed liens and claims, until paid as provided herein.

g. The collection and enforcement procedures set forth in this section shall be cumulative with, supplemental to, and in addition to any applicable procedures provided in any other ordinance or administrative regulations of the city or any applicable law or administrative regulation of the state. Failure of the city to follow the procedure set forth in this section shall not constitute a waiver of its rights to proceed under any other ordinances or administrative regulations of the city or any applicable law or administrative regulation of the state.

(f) *Use of monies.*

(1) The city hereby confirms the establishment of separate capital accounts for the water and/or wastewater systems capital charges, which shall continue to be maintained separate and apart from all other accounts of the city. All such water and/or wastewater systems capital charges received by the city shall be deposited in such capital accounts immediately upon receipt.

(2) The monies deposited into the water and/or wastewater systems capital charge capital accounts shall be used solely for the purpose of providing growth necessitated capital improvements and additions to the water and/or wastewater systems, including, but not limited to:

- a. Design or construction plan preparation.
- b. Permitting and related fees.
- c. Land or utility system acquisition, including any costs of acquisition or condemnation.
- d. Construction and design of water and/or wastewater systems buildings, facilities, or improvements and additions thereto.
- e. Design and construction of drainage facilities reasonably required by, or convenient to, the construction of water and/or wastewater systems buildings, facilities, or improvements and addition thereto.

f. Relocating utilities required by the construction of water and/or wastewater systems buildings, facilities, or improvements and addition thereto.

g. Construction management, inspection, or both.

h. Surveying, soils and material testing, and the evaluation and development of raw water resources and supplies.

i. Acquisition of plant or equipment necessary or convenient to expand the water and/or wastewater systems.

j. Payment of principal and interest, reserves and costs of issuance – under any bonds or other indebtedness issued by the city to fund growth impacted improvements, and additions to the water and/or wastewater systems.

(3) Funds on deposit in the water and/or wastewater systems capital charges capital accounts shall not be used for any expenditure that would be classified as routine maintenance, operation, or repair expenses.

(4) The monies deposited in the water and/or wastewater systems capital charges capital accounts shall be used solely to provide improvements and additions to the water and/or wastewater systems required by growth, generated by development within the city's service area. An appropriate use of capital charges includes the payment of expansion-related, annual debt service.

(5) Any funds on deposits that are not immediately necessary for expenditure shall be invested by the city. All income derived from such investments shall be deposited in the water and/or wastewater systems capital charges capital accounts and be used as provided herein.

(g) *Determination of Equivalent Residential Connection factors for water and wastewater services.*

(1) For purposes of calculating and imposing the wastewater capital charge provided for in this section, the ERC factor for any particular connection shall be calculated and imposed in a manner consistent with section 24-43.1(5), Miami-Dade County Code, as amended from time to time. The city reserves the right, however, to recalculate such usage.

(2) For purposes of calculating and imposing the water capital charge provided for in this section, the ERC factor for any particular connection shall be calculated and imposed by multiplying the number of ERCs (at 350 gallons per ERC) based upon the meter equivalency factors set forth in subsection 94-162(k) hereof. The city reserves the right, however, to recalculate such usage based upon industry standards.

(h) *Alternative capital charge calculation.*

(1) If an applicant or owner believes that the impact to the water and/or wastewater systems necessitated by new development is less than the impact established herein, such applicant or owner may submit a calculation of an alternative water and/or wastewater systems capital charges to the director of the department of water and sewers pursuant to the provisions of this section.

(2) Any right to submit an alternative method of calculating the water and/or wastewater systems capital charges shall be deemed to have been waived, expired, and such calculations shall be rejected by the city if not properly and timely made prior to the issuance of a building permit for the respective construction.

(3) Upon timely submission of an alternative method of calculating the water and/or wastewater systems capital charges, the basis therefore and receipt of the alternative the calculation of water and/or wastewater systems capital charges, the department director shall review the calculation within 90 calendar days after receipt.

If the department director determines that the data, information and assumptions utilized by the owner or applicant to calculate the alternative water and/or wastewater systems capital charges complies with requirements of this section and that the alternative water and/or wastewater capital charges were calculated by the use of a generally accepted methodology, then the alternative water and/or wastewater systems capital charges shall be paid in lieu of the capital charge set forth in this section.

If the department director determines that the data, information and assumptions utilized by the owner or applicant to calculate the alternative water and/or wastewater systems capital charges does not comply with the requirements of this section, or is otherwise not equitable, or that the alternative water and/or wastewater systems capital charges were not calculated by the use of a generally accepted methodology, then the city shall mail to the owner or applicant by certified mail, return receipt requested, written notification of the rejection of the alternative water and/or wastewater systems capital charges stating the reason therefore.

(4) If the owner or applicant does not agree with the recommendations of the department director, the owner or applicant shall have the right to appeal the recommendation before a special master at a scheduled public hearing. This appeal for a review to the special master must be received within 60 calendar days after notification of the rejection of the alternative water and/or wastewater systems capital charges from the city. The decision of the special master shall be in writing and will be issued within 30 calendar days after the presentation of the appeal by the owner or applicant. The special master's decision may be appealed to the city council within 15 days from the date that the special master issues the decision. The city council, at a public hearing, shall review the decision and issue

its decision. Such decision shall be considered as being final with respect to the alternative fee calculation process.

(5) Any applicant or owner who submits a proposed alternative water and/or wastewater systems capital charges pursuant to this section and desires immediate issuance of a building permit shall pay, prior to or at the time, the applicable water and/or wastewater systems capital charges pursuant to section 94-162. Such payments shall be deemed to be paid under "protest" and shall not be construed as a waiver of any right of review. Any difference, if any, between the amount paid and the amount due, as determined by the city, shall be refunded to the applicant or owner within 30 calendar days of the city's final decision thereon.

(i) *Exemptions.* The following shall be exempted from payment of capital charges:

(1) Alterations or expansions of then existing buildings, structure, or improvement where no additional demand on the water and/or wastewater systems is or will be created by such alterations or expansions.

(2) The construction of accessory buildings, structures, or improvements that will not create an additional demand on either the water and/or wastewater systems.

(3) The replacement of then existing building, structure, or improvement which has previously been subjected to capital charges payable to the city and where no additional demand is or will be created by that replacement on either the water and/or wastewater systems.

(4) Buildings, structures, or improvements, either then existing or which then have been issued a building permit for which construction is proceeding in good faith, previously served by a utility service provided other than the city, provided that at the time the city formally resolves to acquire that utility, the city council expressly declares its intention to operate such utility as a component of the construction of water and/or wastewater systems."

(j) *Additional policies related to capital contributions.*

(1) *Manner of paying; payment prerequisite to rendering service.* The City requires the payment of contributions in aid of construction, either by cash payments or through the installation of water distribution and wastewater collection facilities by the developer, builder or property owner, the title to such facilities transferred to the city, or a combination of both forms of contributions. The requirement of the city for such contributions is declared to be for the purpose of defraying the cost of the water and wastewater systems. The payment by the developer, builder and/or owner of such contributions to the city shall be a condition precedent to the rendering of service by the city.

(2) *Computation.* In addition to the capital charges set forth above, the aggregate value of capital contributions required by the city, either in cash or by utility



facilities construction donated to the city, shall be computed and determined as set forth in subsection (3) below.

(3) *On-site facilities.* Each developer, owner or builder (hereinafter referred to as developer) shall be responsible for the design, installation, inspection and testing of complete distribution facilities and collection facilities located in the street or streets, facilities' rights-of-way or easements adjoining or within the boundaries of the developer's property, or the equivalent cost of the same in the event such facilities have been previously designed and/or installed. The city's requirement for the installation of oversized lines or facilities, located on the developer's property and designed to provide service for other properties, shall be the subject of a developer's agreement to be negotiated with the city.

(4) *Off-site facilities.* The developer is required to extend service to the city's water and wastewater transmission facilities. For the purpose of this extension policy, the term "off-site" shall be defined as those distribution facilities, water transmission facilities, wastewater transmission facilities, collection facilities and/or pumping stations necessary to connect the developer's property with facilities of the city adequate in size to transmit to the developer's property an adequate quantity of water under adequate pressure and/or transmit wastewater collected on the developer's property to the treatment plant or disposal site of the city. The physical location of such off-site facilities may, in fact, be within the geographic boundaries of the developer's property; however, such geographic location shall not change the character of said off-site facilities since the same relates to major transmission and collection facilities serving major developed areas or more than one developer's property. It is the city's policy to apportion the cost of the off-site facilities pro rata against the properties receiving service from such off-site facilities using the refundable advance approach. Since each developer draws from the hydraulic capacity of such facilities, the city will require that the developer install such facilities and pay the developer's property's hydraulic share as a minimum of the cost of the off-site facilities through which service is rendered to the developer's property. Developers are required to advance all or a portion of the off-site facilities in order to provide a physical interconnection of the developer's property with the facilities of the city at their then present terminus.

(5) *Utility standards, policies and procedure.* All on-site and off-site facilities shall be designed and constructed in accordance with city utility standards, policies, and procedures, as amended from time to time.

(k) Customer metering.

(1) The decision of size, type, quantity and installation of meters for any given customer or property shall be within the sole discretion of the city. The general rule or policy of the city shall be that each dwelling unit or business shall be provided with its own meter. Nevertheless, the city may determine that a different, alternative metering arrangement is acceptable within its sole discretion.

At a minimum, however, approval of any such alternative metering arrangement shall be subject to payment of (1) applicable water capital charges based upon projected ERC usage; and (2) payment of monthly base service charges for projected ERCs.

(2) Commercial and industrial structures shall be expressed as equivalent single-family residential units on the basis of the relative capacities of water meters serving the structures. Meter sizes and the corresponding number of equivalent single-family residential units are tabulated below:

Meter Size	Equivalencies (ERCs)
5/8"	1.0
1.0"	2.5
1.5"	5.0
2.0"	8.0
3.0"	16.0
4.0"	25.0
6.0"	50.0
8.0"	80.0
10.0"	115.0
12.0"	241.0

\*Since this is an entirely new section of the Code, the City did use underlining to denote additions to the Code.

**Section 4. Amendment to Hialeah Code §§ 94-26 and 94-47.**

Chapter 94 entitled "Water and Sewers", Article II. Water, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 94-26 entitled "Definitions" and Hialeah Code § 94-47 entitled "Distribution mains", to read as follows:

Chapter 94

**WATER AND SEWERS**

\*

\*

\*

**ARTICLE II. WATER**

**Sec. 94-26. Definitions.\*\***

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

\*

\*

\*

Capital charge, water means a nonrefundable capital expansion fee or impact charge designed to recover from future customers generating the demand for water service the reasonably anticipated cost of the water facilities necessary to provide the required water service. The amount of the capacity fee is based on the city's investment in the existing and estimated costs of treatment plants and major water transmission facilities to be utilized by future customers plus the related carrying costs incurred by the city while waiting for the future customer to connect to the system.

~~Connection fee means a one-time fee to be paid by the owner, tenant or occupant of each premise for each service connection to the waterworks system of the city, payable prior to the connection, whether such connection is metered or unmetered. Such fees apply for connections to either existing or proposed mains.~~

\*

\*

\*

**Sec. 94-47. Distribution mains.**

(a) Before the department installs a distribution main to supply water to a tract or parcel of land that is subject to development, the owner of the tract or parcel of land to be served shall make application for the installation of the necessary distribution mains to be laid to and inside the tract or parcel of land to be served, setting forth the information as required in this chapter and shall enter into a developer's agreement with the department as specified herein.

(b) The department shall review such application that shall include a layout of the project showing the exact location and size of mains submitted by the customer. The department will make an estimate of the cost of materials and labor, including overhead for installing such main, and will make a determination of the physical and financial feasibility of the project. If found physically and financially feasible, the department will issue a commitment for water service, and the applicant shall pay to the department, before the commencement of any work on the project, the appropriate fees and charges based on the peak flow rates required for standard service and fire flow rate requirements for fire protection service to be connected to the system.

(c) If the department approves the application, issues the commitment and collects the fees and charges, the department will, within a reasonable time thereafter, commence work on the project, either with city personnel or by city-

approved contractor. Such mains and appurtenance thereto shall be city property and shall constitute a part of the water distribution system of the city. Under certain circumstances, the department may determine that the ~~connection fees~~ water capital charges are not adequate to justify the construction needed to provide service. In these cases, the applicant will be advised of the additional contribution in aid of construction that will be necessary to be paid before construction can commence. The applicant shall then advise the department if the applicant desires to proceed with the connection.

(d) The department may allow the owner to proceed with the installation using an approved contractor selected by the owner as outlined in the developer's agreement.

\*

\*

\*

**Section 6. Amendment to Hialeah Code §§ 94-66 and 94-71.**

Chapter 94 entitled "Water and Sewers", Article III. Sanitary Sewers, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 94-66 entitled "Definitions", to read as follows:

Chapter 94

**WATER AND SEWERS**

\*

\*

\*

**ARTICLE III. SANITARY SEWERS**

**Sec. 94-66. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

\*

\*

\*

~~Capacity fee~~ Capital Charge, Wastewater means a nonrefundable capital expansion fee or impact charge designed to recover from future customers generating the demand for wastewater service. The amount of the capacity fee is based on the city's investment in the existing and estimated costs of treatment plants, sewer force mains, pump stations or lift stations to be utilized by future

customers plus the related carrying costs incurred by the city while waiting for the future customer to connect to the system.

\*

\*

\*

**Sec. 94-71. Application for sanitary sewer commitment, connection or service; execution of service application considered contract between applicant and city.**

(a) Anyone requesting a sanitary sewer service commitment or connection shall make application with the department setting forth such information as required by the department.

(b) The department shall review such application to determine the adequacy of existing facilities and if new facilities are required. Prior to entering any agreement to extend a sewer force main or lateral, the applicant must secure and have a current sewer allocation letter from DERM.

(c) If the department finds it physically and financially feasible to provide service under the usual fee schedules, it will notify the applicant of such determination and issue a commitment or conditional commitment for sanitary sewer service. The commitment or conditional commitment shall specify the point of connection for accepting wastewater from the applicant's project. The applicant thereupon, before the commencement of any work on the project by the department, shall pay to the department the required charges. If the department finds that it is not physically or financially feasible to provide service as requested, it will so notify the applicant and advise what additional charges may be required, or the department may require the applicant to provide the necessary extensions or improvements. If such charges or adjustments are established, the department will issue a conditional commitment for sanitary sewer service.

(d) The applicant, upon receipt of the conditional commitment, shall advise the department whether or not the applicant intends to proceed further. If the applicant agrees with the conditions set forth in the department's service commitment and desires to proceed with the project, the applicant shall pay, prior to the issuance of a building permit, the required prevailing ~~sanitary sewer capacity fees based on the number and size of the water meters to be installed for each residence, building or establishment,~~ wastewater capital charges as determined under section 94-162, as may be existing or proposed to be constructed within the applicant's parcel of land covering the proposed service area. The ~~connection fees~~ wastewater capital charges assessed are in addition to sewer improvement service charges, if applicable.

(e) All service commitments when issued by the department shall constitute a contract between the applicant and the city that shall bind such applicant to pay the department for the services rendered at its prescribed rates and charges and to

comply with all rules and regulations as prescribed and fixed hereunder or as hereafter adopted.

(f) If the department approves the application, issues the commitment or conditional commitment and collects the appropriate fees and charges, it will allow the applicant to commence work on the project.

(g) The sanitary sewer commitment shall become invalid if a building permit has not been issued after one year and/or after the expiration of the Miami-Dade sewer allocation letter, whichever date is earlier. In addition, the sanitary sewer commitment shall become invalid if the work authorized by the building permit is not commenced within six months after date of issuance of the building permit, unless extended, or the project is abandoned for a period of one year after the work is commenced. An extension for a commitment shall be in writing. No sewer connection will be permitted unless the customer is also ~~connection~~ connecting to the water system.

(h) All commitments, when paid by the customer or upon the department's performance of the service, shall constitute a contract between the customer and the city that shall bind the customer to all conditions of the commitment and will require the customer to comply with all the rules and regulations as prescribed and fixed hereunder or as hereafter adopted.

**Section 7. Amendment to Hialeah Code §§ 94-152, 94-153, 94-157 and 94-158.**

Chapter 94 entitled "Water and Sewers", Article IV. Procedures for Water and Sewer Services, Division 4. Rates, Fees and Charges, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 94-152 entitled "Sanitary sewer service charge.", Hialeah Code § 94-153 entitled "Utility rates, fees and charges", Hialeah Code § 94-157 entitled "Capital charge for water and sewer service from alternative connections [renamed]" and Hialeah Code § 158 entitled "Surcharge and service rates for all service outside city limits", to read as follows:

Chapter 94

**WATER AND SEWERS**

\*

\*

\*

## ARTICLE IV. PROCEDURES FOR WATER AND SEWER SERVICES

\*

\*

\*

### DIVISION 4. RATES, FEES AND CHARGES

\*

\*

\*

#### **Sec. 94-152. Sanitary sewer service charge.**

A sanitary sewer service charge shall be assessed upon all premises within the city connected to or using the facilities of the city's sanitary sewer system. Such sanitary sewer service charge shall be in an amount established by ~~resolution~~ ordinance. The amount of such sanitary sewer service charge shall be included in such water bills and shall be paid by the customer at the same time and in the same manner as is provided in this article for the payment of water bills.

#### **Sec. 94-153. Utility rates, fees and charges.**

(a) *Free service.* There shall be no free service rendered for any utility service provided by the city. All accounts shall have a deposit.

(b) *Authority to establish.* The city council shall have the authority to set rates, fees and charges by ~~resolution~~ ordinance, including ~~sewer connection fees~~ wastewater capital charges as provided in this section.

(c) *Annual consumer price index adjustment of water and sewer rates.* That each October 1 from and after October 1, 2006, the latest water and sewer charges shall be adjusted by the amount of the annual increase in the index numbers of retail commodity prices designated "Consumer Price Index For All Urban Consumers--United States City Average--All items (the "Consumer Price Index" or "CPI") as issued by the Bureau of Labor Statistics, United States Department of Labor. The annual CPI increase provided in this subsection shall not be applicable or effective unless and until the city complies with the notification procedures of F.S. § 180.136, as applicable, and confirms such increase in rates and charges by ~~resolution~~ ordinance of the city council.

(d) *Types of fees.* Fees will be charged for the following services and costs:

- (1) Day turn-on and account start-up fee;
- (2) Removal of curb lock;
- (3) Broken curb lock;
- (4) Bad check handling charge;
- (5) Bad check charge if cut off;
- (6) Delinquent account collection charge;
- (7) Delinquent account charge if cut off;

(8) Emergency turn-on/off at owner's request. The turn-on fee will be charged for each trip made by a meter service attendant. Service will not be left on when the meter indicates an open valve or faucet;

(9) Labor and material costs incurred by the city due to damage to its property.

(10) Reconnection charges.

(e) *Water rates.* The rates for water furnished by the city to the customer shall be based upon the quantity of water, determined by metering, furnished to each premises each billing period including the minimum monthly charges. Different rates are to be charged to premises inside and outside the city limits in accordance with section 94-158. A surcharge for service provided outside the territorial limits of the city is assessed as set forth in section 94-158.

(f) *Water rates, fees and charges.*

(1) All water used, other than for the prevention and extinguishment of fires or for testing of fire hydrants, by the city itself or by any other political subdivision or public agency, except as otherwise provided in any contract between the city and a public agency for supplying water at special rates to any agency, shall be paid for at meter measurement at the rates hereinafter established by resolution or by approval of annual budget.

(2) The city shall pay the department an annual fire hydrant charge, as established by resolution.

(3) Revenues received for water furnished to the city shall be applied and accounted for in the same manner as other revenues derived from the operation of the waterworks system of the city.

(g) *Water installation charges, ~~connection fees~~ capital charges and other fees.* The following charges pertain to installation or ~~connection~~ capital and other fees and charges for services performed by the water department.

(1) Installation charges (to be paid prior to the installation).

a. Installation charges for five-eighths-inch by three-fourths-inch through two-inch water meters.

b. Installation charges for meters larger than two inches.

c. Installation charges for irrigation and hydrant meters shall be computed separately.

d. If the flow rate requirement in subsection (g)(1)c. (above) is greater than customer's existing service capacity, the customer



shall require a new service with adequate capacity and shall pay a new installation charge, plus additional appropriate water capital charges.

e. Installation charges for fire protection system connection assemblies shall be computed separately for each size and location.

f. Additional charges shall be assessed to the customer for costs incurred due to extraordinary or special condition that include, but are not limited to, requirements for casing, meter vaults and remote meter reading devices.

g. New water customers who desire to have immediate meter service installations at a time when it is found and determined by the director to be physically impossible to provide such immediate installation may file an application for permission to have a qualified licensed contractor perform the meter service installation. The customer's contractor will furnish and install the complete service with the exception of the meter, which will be installed by the department, and that only the department, may make those meter service installations. The customer will be responsible for all charges for repair to the meter service installation for one year after the installation is accepted by the city. Upon primary acceptance by the department, all meters, however installed, shall be the sole property of the city and shall constitute part of the water distribution system of the city. Contractors performing this work must be certified as to expertise by the department, use only department-approved materials and install the services according to departmental standards. Contractor's minimum certification requirements include, but are not limited to, furnishing proof of insurance protecting the city in the amount and coverage acceptable to the risk manager; providing a bond in the amount of \$5,000.00 to protect against all claims, suits or actions.

h. The department may reinstall a service of the same size and turn-on at curb stop, if the service meets the department's standards. If it does not, the customer will be charged all costs necessary to restore the service to the departmental standards and the payment of a new service installation charge.

~~(2) Connection fees.~~

~~(32)~~ Applications for water service ~~subject to a schedule of connection fees~~ are subject to appropriate water capital charges contained in Sec. 94-162, which must be paid by the customers of such property to the department before the department makes the connection.

~~a. A connection fee shall be charged for properties where no city water service has previously existed;~~

~~1. No connection fee shall be charged if city water service has previously existed for that property, provided that the same or lesser flow is required. If a large meter is required for a property, the customer shall pay a connection fee for the maximum flow rate required, less a credit for the connection fees for the customer's existing domestic service. The credit shall not exceed the new connection fee amount.~~

~~2. No connection fee shall be charged when parcels that previously had water service are combined to form a new property, provided the water flow rate requirement for the new property is equal to or less than the sum of the individual water flow rates to the original parcels. If the new water service flow rate required is greater than the sum of the individual flow rates, then connection fees shall be paid solely for that additional flow.~~

~~3. If the property is subdivided, each newly created parcel shall pay a connection fee, except for that parcel which retained the prior connection as long as the same or lesser flow is required.~~

~~4. No connection fees will be assessed to a customer requesting a separate meter for lawn irrigation or credit if the consumer has city water service at the time the separate meter is requested and desires the same maximum flow rate (gallons per minute) requirements or less as the existing service. If the irrigation or credit flow requirement is greater than the consumer's existing service, the consumer shall pay a connection fee for the maximum flow rate required, less the connection fee for the consumer's existing service.~~

~~5. No connection fee will be assessed solely for lawn irrigation service for irrigation of public rights-of-way or city property.~~

~~b. Standard and fire protection system connection fees shall be charged according to the following options:~~

~~1. Option 1: Connection fees to be paid under this condition are for residential, commercial or industrial~~

~~premises located within the corporate limits of the city. These fees may be paid in cash at the time of payment of the meter installation charge.~~

~~2. Option 2: In lieu of paying the lump sum connection fee, the applicant, if an owner of the residential premises, shall have the option of entering into a written agreement with the city recorded in the county public records to pay the connection fee in 24 equal monthly payments plus legal rate of interest on the remaining balance due, plus the then current recording fee, provided, monthly payments shall start from the date of payment of the meter installation charge. When the installation agreement has been satisfied in full, the city shall prepare and deliver to the applicant a receipt of full payment of connection fee and satisfaction of terms of agreement; and the city shall be responsible for filing same with the clerk of the circuit court for recordation in the public records of the county. Until the installment agreement has been satisfied in full, the unpaid balance (amount) shall be and constitute a lien upon the real property, which has been connected to the city's water system; and such lien shall run with the land binding any grantee, assignee, heirs, successors or personal representatives of the owner-occupant.~~

(3)e. Fire protection system ~~connection fees~~ capital charges charged shall be established by ~~resolution~~ ordinance. Such ~~connection fees~~ capital charges shall be paid by all users located outside the city territorial limits and for new construction within the city.

(4) Miscellaneous water department fees.

- a. Application for water service.
- b. Temporary meter use.
- c. Main inspection.
- d. Fire protection system connection assembly inspection.
- e. Install or move a temporary two-inch service or fire hydrant.
- f. The service charge for readiness to serve private fire protection systems within or outside the city, not metered, is hereby established as a separate fee. Such charges shall be payable annually in advance to the city. No water is to be used from fire

protection systems at any point on the line except in case of fire; nor are any fixtures other than those used for fire protection to be connected to such fire line.

g. The department may reinstall a service of the same size and turn-on at curb stop, if the service meets departmental standards. If it does not, the customer will be charged all costs necessary to restore the service to the departmental standards and payment the new service installation charge.

~~(h)~~ *Sanitary sewer fees and charges.* The following are the sanitary sewer department fees and charges:

- ~~1.(1)~~ Wastewater disposal charge.
- ~~2.(2)~~ Sewer improvement service charge.
- ~~3.(3)~~ Disconnect/reconnect charge.
- ~~4.(4)~~ Application fees.
- ~~5.(5)~~ Commercial plan review and inspection fee.
- ~~6.(6)~~ Special user surcharge.
- ~~7.(7)~~ Field sampling of wastewater.
- ~~8.(8)~~ Laboratory analysis of wastewater.
- ~~9.(9)~~ Testing of wastewater.
- ~~10.(10)~~ Inspections, including TV inspections.
- (11) Wastewater capital charges.

~~(h) Connection fees.—~~

~~(1) A connection fee shall be required for any building, structure or private wastewater disposal system connection to the disposal system of the city.~~

~~a. The connection fee shall be based in part on the approved size of the water meter that is designed to accurately measure the quantity of water supplied by the city to be used for domestic, commercial or industrial purposes for conveyance of waste or other materials generated by the user. The water department shall have the authority for determining and/or approving the~~

~~appropriate size of the meter required to accurately measure the quantity of water furnished to the premises.~~

~~b. The connection fee shall be based also in part on the number of approved water meters required to accurately measure the quantity of water furnished to the premises. An approved meter shall be required for each and every water supply line or water service connection furnished to the premises from all sources, regardless if it the city provides water for those uses that cause a wastewater stream to be generated, such wastewater stream being allowed to be discharged to the collection system of the city. The department shall have the authority for determining and/or approving the appropriate number of meters required to accurately measure the quantity of water to be supplied to the premises. Owners of a single-family residence or a single duplex, however, shall not be required to, but may, install a meter on a private water supply source that supplies water to the premises, provided that it is the one and only such source.~~

~~(2) A connection fee will not be required for any meter for which the sole purpose is to measure the quantity of water supplied for irrigation, cooling or other uses, such uses not causing a wastewater stream to be generated or, if a wastewater stream is generated, which cannot be discharged with the city distribution system.~~

~~(3) Connection fees due and payable prior to issuing any site utility, building, foundation or plumbing permits for a building, structure or utility appurtenance that is proposed for connection to the treatment system of the city shall be established by resolution or by annual budgeting approved by the city council.~~

~~(4) The above schedule of connection fees shall be applicable also for each building used for residential, commercial or industrial purposes that is being served by a private wastewater disposal system on a lot or parcel of land, but for which lot or parcel a sanitary sewer has been constructed by the city. The owner, tenant or occupant of such building shall make application for a building sewer connection, pay the applicable capacity fee and shall connect all buildings located on the lot or parcel of land within 30 days of mailing of the official notification of the completion of the sewer.~~

~~(5) The owner, tenant or occupant of a building used for residential, commercial, or industrial purposes for which a sanitary sewer has been constructed, shall pay within 30 days of mailing of the official notification of the completion of the sewer.~~

\*

\*

\*

**Sec. 94-157. ~~Connection~~ Capital charge for water and sewer service from alternate connections.**

Any property in the city that has been assessed for water or sanitary sewer shall not thereafter be assessed for any subsequent like improvements that merely afford identical service from an alternate hookup or tie-in location. There shall, however, be a service hookup charge imposed against all property on which the owner elects to hook into or tie into any such alternate service line or main for which the property was not assessed. The amount of such charge in each instance shall be equal to the ~~connection~~ capital charge that would have been levied against the property if it were subject to a ~~connection~~ capital charge for the subsequent utility improvement had the property not been already served by the existing facility. All such payments shall be made to the department who shall issue, in receipt thereof, a permit to hook into the aforesaid alternate facility.

**Sec. 94-158. Surcharge, ~~connection charges~~ and service rates for all service outside city limits.**

(a) All of the fees, rate and charges set forth in this chapter for service delivered outside the territorial limits of the city shall carry a 10 percent surcharge of the fees, rates and charges for like services to similar customers within the city.

(b) ~~Connection charges~~ Capacity for customers outside city territorial limits are provided in Table 1 as follows:

TABLE 1

TABLE INSET:

NO.	TYPES OF BUILDING USAGES	RATING
1	Adult congregate living units and other residential institutions and facilities	100 GPDC
2	Airport	5 GPD/passenger; 10 GPD/employee
3	Apartments (per unit)	200 GPD
4	Banquet halls	25 GPD/seat
5	Barbershop	10 GPD/100 sq. ft.
6	Bars and cocktail lounges	25 GPD/seat
7	Beauty shops	75 GPD/seat
8	Bowling alleys	100 GPD/lane

9	Camper or trailer parks	150 GPD/space
10	Car wash (hand type)	3,500 GPD
11	Car wash (recycling type)	750 GPD
12	Coin laundries	225 GPD/washer
13	Country clubs	25 GPD/member
14	Dentist offices	250 GPD/per dentist 200 GPD/wet chair
15	Duplexes or twin home residences	250 GPD/unit
16	Factories with showers	20 GPD/100 sq. ft.
17	Factories without showers	10 GPD/100 sq. ft.
18	Food preparation outlets (bakeries, meat markets, commissaries)	350 GPD minimum 50 GPD/100 sq. ft.
19	Funeral homes	10 GPD/100 sq. ft.
20	Gas stations, minimarts	450 GPD
21	Health spas, gyms	35 GPD/100 sq. ft.
22	Hospitals with laundry	250 GPD/bed
23	Hospitals without laundry	250 GPD/bed
24	Hotels and motels	100 GPD/room or unit
25	House of worship	3 GPD/seat
26	Kennels	30 GPD/cage
27	Marinas	40 GPD/boat slip
28	Mobile home parks	300 GPD/unit
29	Motor vehicle service stations	10 GPD/100 sq. ft.
30	Nursing or convalescent homes	150 GPD/bed
31	Office buildings	10 GPD/100 sq. ft.
32	Parks (with toilets only)	5 GPD/person
33	Parks (with toilets and showers)	20 GPD/person
34	Pet grooming	10 GPD/100 sq. ft.+ 75 GPD/tub
35	Physician offices	250 GPD/physician
36	Public swimming facilities	10 GPD/person

37	Restaurants (full service)	50 GPD/seat 350 GPD minimum
38	Restaurants (fast food service)	35 GPD/seat 350 minimum
39	Restaurants (take-out service)	50 GOD/seat 350 minimum
40	Schools	
	A. Day care/nursery	5 GPD/student
	B. Regular school	10 GPD/student
	C. With cafeteria, add:	5 GPD/student
	D. With showers, add:	5 GPD/student
	E. Teachers and staff	15 GPD/student
41	Shopping centers (dry use)	5 GPD/100 sq. ft.
42	Show rooms*	10 GPD/100 sq. ft.
43	Single family residence	350 GPD
44	Stadiums, frontons, ball parks	3 GPD/seat
45	Storage or mini warehouses	5 GPD/1000 sq. ft.
46	Stores without food service	5 GPD/1000 sq. ft.
47	Theatres	
	A. Indoor auditorium	3 GPD/seat
	B. Outdoor drive-in	5 GPD/car service
48	Townhouse residences	250 GPD
49	Veterinarian offices	
	A. Per veterinarian	250 GPD
	B. With kennels	30 GPD/cage
50	Warehouse/industrial speculation buildings*	20 GPD/1000 sq. ft.

Note: GPD = Gallons per day

GPCD = Gallons per capita per day

\* = Not included in administrative order

**Section 8. Enforcement; Violations; Penalties.** Violations of the provisions of this ordinance or failure to comply with any of the requirements set forth herein shall be prosecuted as provided by law. Each day such violation continues shall be considered as



a separate event. Nothing herein contained shall prevent the city from making such other lawful actions as is necessary to prevent or remedy any violations, including seeking injunctive relief in a court of competent jurisdiction, or terminating service as provided by law.

**Section 9. Liberal Construction.** In the interpretation and application of this Ordinance, all provisions shall be considered as a minimum requirement, liberally construed in favor of the City, and deemed neither to limit nor repeal any other powers granted under state law. This Ordinance is cumulative and supplemental to existing City laws, ordinances, rules and regulations. Where this Ordinance and the provisions contained herein conflict or overlap with any other City law, ordinance, rule or regulation, whichever imposes the more stringent restriction shall prevail.

**Section 10. Severability.** It is hereby declared to be the intent of the Mayor and City Council of the City of Hialeah that if any section, subsection, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

**Section 11. Conflicts; Repeal; Ratification.** All ordinances, or parts of ordinances in conflict with this Ordinance are to the extent of such conflict hereby repealed. The Mayor and City Council hereby ratify all previously calculated, established, or collected Water and Wastewater Capital Charges.

**Section 12. Inclusion in Code.** It is the intention of the Mayor and City Council of the City of Hialeah, and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Hialeah,

Florida, that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article" or other appropriate designation.

**Section 13. Effective Date.** The provisions within this ordinance shall take effect 90 days after the dated of adoption on second reading and signature of the Mayor (the "Effective Date").

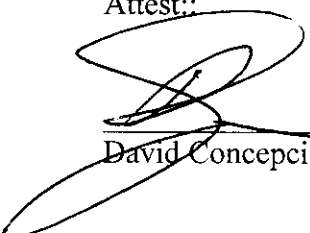
PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

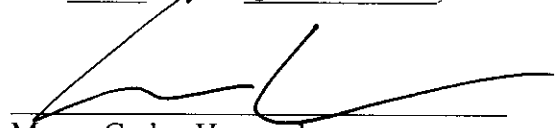
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Isis Garcia-Martinez  
Council President

Attest::

Approved on this 3 day of June, 2011

  
David Concepcion, Acting City Clerk

  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
William M. Grodnick, City Attorney

**\*\* ~~Strikethrough~~ indicates deletion. Underline indicates addition.**

S:\WMG\LEGISLATION\ORD\Ordinance 2011\ch94amndwaterandsewersimpactfeeordinance.docx

Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, and Yedra voting "Yes".